THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.18527 of 2006

Dated : 27.04.2007

Between:

Smt.K.Chellayyamma Devi W/o Sri Chanti Babu
Office of Ex-Sarpanch, Gram Panchayat, Divili,
Peddapuram Mandal, East Godavari District.

…**PETITIONER**

And:

Government of Andhra Pradesh, rep., by its
Principal Secretary, Panchayat Raj Department,
A.P. Secretariat, Hyderabad and others.

… **RESPONDENTS**

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ORDER:

The petitioner, at the relevant time, was Sarpanch of Divili Gram Panchayat of Peddapuram Mandal in East Godavari District. By an order dated 28.05.2006, the third respondent placed her under suspension for a period of three months. Before doing so, a show cause notice was issued, framing nine charges in relation to the alleged misappropriation of Gram Panchayat funds. Aggrieved by the order of suspension, the petitioner preferred a revision petition before the Government. By G.O.Rt.No.1062 dated 29.07.2006, the first respondent dismissed the revision petition, directing the third respondent to take necessary action as per Andhra Pradesh Panchayat Raj Act, 1994 (for short 'the Act'). Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner submits that the basis for the Government to come to the conclusion that the petitioner misused a sum of Rs.30,730/- under Individual Sanitary Latrines (ISL) scheme is the report submitted by the Divisional Panchayat Officer. The Divisional Panchayat Officer conducted enquiry three years after

construction of latrines in the village, and therefore, the Divisional Panchayat Officer committed an error in coming to the conclusion that the amount was drawn though the latrines were constructed by the beneficiaries themselves. **Opposing** the Writ Petition, learned Assistant Government Pleader for Panchayat Raj submits that the period of suspension was over by September 2006, and in the recent elections, petitioner was not elected, as the term of the elected body was over and new body was elected. He also submits that the charges were serious, and suspension by Gram Panchayat is justified.

Whether the Divisional Panchayat Officer conducted enquiry properly or not is a question of fact, which cannot be decided in the writ petition. The Government, after verifying records, agreed with the District Collector, insofar as the charge that the petitioner misappropriated a sum of Rs.30,730/- under ISL scheme. For all purposes, the matter should rest there unless any mala fides are attributed against public authorities. In this case, no mala fides are attributed. Secondly, as per Section 249(6) of the Act, a Sarpanch can be placed under suspension only for a period of three months and that period expired long back. Even assuming that the Government had extended the period of suspension for another three months in accordance with the second proviso to Section 249(6) of the Act, even then the six months period expired long back.

Therefore, the writ petition is misconceived and is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

27th April, 2007.
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